



Request for City Council Committee Action From the City Attorney's Office

Date: July 25, 2002
To: Ways & Means/Budget Committee
Referral to: None

Subject: Request for Reimbursement of Legal Fees for Officer Lance LaRon Ahlrich.

Recommendation: That the City Council approves the request of Officer Lance LaRon Ahlrich for the reimbursement of attorneys' fees payable to Frederic Bruno & Associates in the amount of \$1,042.75 payable from Fund/Org. 6900 150 1500 4000.

Previous Directives: None.

Prepared by: Timothy S. Skarda, Assistant City Attorney, 673-2553

Approved by: _____
Jay M. Heffern
City Attorney

Presenter in Committee: Jay M. Heffern, City Attorney

Financial Impact (Check those that apply)

- ☐ No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- ☐ Action requires an appropriation increase to the Capital Budget
- ☐ Action requires an appropriation increase to the Operating Budget
- ☐ Action provides increased revenue for appropriation increase
- ☐ Action requires use of contingency or reserves
- ☒ Other financial impact (Explain): Payment from Fund/Org. 6900 150 1500 4000
- ☐ Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact: None

Background/Supporting Information

Minneapolis Police Officer Lance Ahlrich has requested, through his attorney, the reimbursement of legal fees pursuant to Minnesota Statutes §465.76. The fees arose from his representation during an investigation of a shooting incident in which David Byrne was injured on July 17, 2001. Frederic Bruno and Associates represented Officer Ahlrich.

On July 17, 2001, Investigator Mike McGee of the Columbia Heights Police Department was shot by David Byrne while he was walking home. Columbia Heights Police Sgt. Dietz responded to the call for assistance and was shot and seriously wounded by Byrne. Officer Judith Rollins of the Minneapolis Police Department

also responded to the call. She was shot in the upper arm with a high-powered rifle by the suspect. David Byrne engaged in a lengthy gun battle with police officers. Officer Lance Ahlrich arrived at the scene after McGee, Dietz and Rollins had been shot. Officer Ahlrich shot the suspect from approximately 40 yards away. Mr. Byrne was tried and found not guilty by reason of insanity and committed to a mental hospital.

Frederic Bruno submitted itemized bills to this office for payment under Minn. Stat. §465.76. The total amount of the itemized bill is \$1,042.75. The hours expended were related to the criminal defense of the officer during the investigation of the incident. The bill appears reasonable.

Minnesota Statute §465.76 provides:

"If reimbursement is requested by the officer or employee, the governing body of a home rule charter or statutory city or county may, after consultation with its legal counsel, reimburse a city or county officer or employee for any costs and reasonable attorneys fees incurred by the person to defend charges of a criminal nature brought against the person that arose out of the reasonable and lawful performance of duties for the city or county, provided if less than quorum of the governing body is disinterested, that such reimbursement shall be approved by a judge of the district court."

In 1984 the City Council appointed a criminal legal fees task force. The task force was directed to consider and recommend appropriate policies for the City to follow with respect to payment of legal fees. The task force examined the statutes, policies of other jurisdictions, the present policy, case law and alternative procedures. In a letter dated June 18, 1984, the task force ratified the existing system in which the City Council, after the advice of the City Attorney upon the reasonableness of the fees and the scope of employment issues, acts formally on a request for reimbursement. Prior to acting, the Council reviews each case with reference to the general principles as follows:

1. Nature of the inquiry or allegations by the investigating authority.
2. Whether the action arose out of the performance of the officer or employee's duties.
3. Whether he or she acted in good faith.
4. Whether there was malfeasance or willful or wanton neglect of duty.
5. Whether he or she was acting pursuant to directions from a superior or pursuant to law.
6. Whether the morale of other City officers and employees would be adversely affected by paying or not paying the claim.

The above criteria were developed under Minn. Sess. Laws 1969, Chapter 790, Section 2, granting the City of Minneapolis authority to reimburse legal fees to employees in criminal proceedings. Minn. Stat. §465.76 was later enacted. The new section is fundamentally the same, except insofar as it adds the requirement that the incident arise from the "lawful" performance of the duties of the employee. It had been the practice under Chapter 790 to approve reimbursement only upon acquittal or failure to charge the employee. Minn. Stat. §465.76 makes this practice mandatory.

With regard to the first consideration set forth in the letter of the task force, the review of the conduct of the officer falls within the statute's parameters. The attorney's fees requested arise from a criminal investigation and propriety of the conduct of the officer.

The second criterion is also satisfied. Officer Ahlrich was on duty, investigating criminal activity and responding to an emergency call for assistance. He was acting for a public purpose and under color of law.

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Regarding the third consideration, Officer Ahlrich acted in good faith. Three police officers had been wounded and the suspect, armed with a high powered rifle, was engaged in a gun battle with officers in a residential neighborhood.

Regarding the fourth consideration, we conclude that there was no malfeasance or willful or wanton neglect of duty. Officer Ahlrich was acting pursuant to law and the policies and procedures of the Minneapolis Police Department.

As to consideration number five, Officer Ahlrich was acting pursuant to law and exercising his legal duties as a police officer. The actions of Officer Ahlrich were authorized by law and within his legal authority.

Finally, with regard to consideration number six, the denial of the request for attorney fees would have a negative impact on the morale of other City employees. Police officers who were making a good faith effort to enforce the law would be responsible for the payment of attorney's fees arising from mandatory investigations into conduct.

Based on the foregoing it is our recommendation that Officer Lance Ahlrich be reimbursed for criminal defense fees pursuant to Minn. Stat. §465.76.